

REMARKS

This paper is presented in response to the Office Action. Claims 9-22 have been withdrawn by the Examiner as directed to an unelected invention. Claims 1-8 are now pending in view of the aforementioned withdrawals.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the convenience and reference of the Examiner, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Information Disclosure Statement

The Examiner has asserted that there is "no form PTO-1449 in the Application file. There is a record of a transmittal letter that states that one was submitted, but the actual information disclosure statement was omitted and therefore no references have been considered."

As evidenced by the documents enclosed herewith however, it appears that contrary to the assertions of the Examiner, an IDS was, in fact, filed in this case on 14 July 2004. In view of the enclosed IDS, and the corresponding fee submitted herewith, Applicant respectfully requests consideration of the references identified in the enclosed PTO-1449.

III. Objection to the Drawings

The Examiner has objected to the drawings as including reference characters not included in the specification. In particular, the Examiner has asserted that reference characters 309 and 512 are not included in the specification. As to reference character 309, Applicant respectfully disagrees. Reference character 309 appears in paragraph 0027 of the specification, where it is stated, in part that “The first group of channels are collimated into a single fiber collimator **309** where they are propagated onto an output fiber 310.” *Emphasis added.* Applicant thus respectfully submits that the objection as to reference character 309 should be withdrawn.

As to reference character 512, Applicant has submitted herewith an amendment to the specification and Applicant respectfully submits that, in view of such amendment, the objection as to reference character 512 should be withdrawn.

IV. Rejection of claims 1-4 and 7-8 under 35 U.S.C. § 102(e)

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure (“MPEP”) § 2131.*

The Examiner has rejected claims 1-4 and 7-8 as anticipated by US 6,215,592 to Pelekhaty (“*Pelekhaty*”). Applicant respectfully disagrees with the Examiner however and submits that for at least the reasons set forth below, the rejection should be withdrawn.

In rejecting claims 1-4 and 7-8, the Examiner has stated that *Pelekhaty* “... teaches a wavelength division multiplexing system (or interleaver as defined by applicant) (Figs. 11 and 13-14) comprising a dual fiber GRIN collimator (284), an optical substrate (part of 282), a thin film portion (282) having a plurality of thin film layers (66, 68) of quarter wavelength thickness (column 5, lines 19-24) ...” However, Applicant respectfully submits that the characterization of *Pelekhaty* advanced by the Examiner is inconsistent with the language of claim 1.

For example, claim 1 recites a “... dual fiber collimator comprising: ... an optical substrate ... a thin film portion applied to the optical substrate ... an input fiber ... and ... a reflection fiber ...” Thus, claim 1 recites a “dual fiber collimator” that comprises multiple components, namely, an optical substrate, a thin film portion applied to the optical substrate, an input fiber, and a reflection fiber. While the Examiner has characterized *Pelekhaty* as disclosing a “dual fiber GRIN collimator (284),” Applicant

respectfully submits that the Examiner has not established that such “dual fiber GRIN collimator (284)” includes the components of claim 1 arranged as recited in claim 1.

In light of the foregoing, Applicant submits that the Examiner has failed to establish that *Pelekhaty* anticipates claims 1-4 and 7-8, inasmuch as the Examiner has not established that the identical invention is shown in *Pelekhaty* in as complete detail as is contained in the claims, and because the Examiner has not established that *Pelekhaty* discloses the elements arranged as required by the claims. Applicant accordingly submits that the rejection of claim 1, as well as the rejection of corresponding dependent claims 2-4 and 7-8, should be withdrawn.

V. Rejection of claims 5 and 6 under 35 U.S.C. § 103(a)

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 2143.

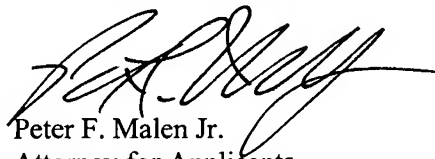
The Examiner has rejected claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over *Pelekhaty* in view of US 6,341,040 to Tai et al. (“*Tai*”). By virtue of their dependence from claim 1 however, claims 5 and 6 require, among other things, a “... dual fiber collimator comprising: ... an optical substrate ... a thin film portion applied to the optical substrate ... an input fiber ... and ... a reflection fiber ...” However, the Examiner has not established that *Tai* or *Pelekhaty*, either alone or in combination with each other, teach or suggest such a “dual fiber collimator.” Thus, even if the *Pelekhaty* and *Tai* are combined in the allegedly obvious fashion advanced by the Examiner, the resulting combination nonetheless fails to include all the limitations of the claims 5 and 6. Applicant thus respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to those claims, and the rejection of dependent claims 5 and 6 should accordingly be withdrawn.

CONCLUSION

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-8 pending in this application is now in condition for allowance. Therefore, allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 28th day of December, 2005.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter F. Malen Jr.', written in a cursive style.

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